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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/010,078	11/02/2001	Allan B. Lamkin	IA 1500.01A US	2686

22887 7590 03/11/2004

DISCOVISION ASSOCIATES
INTELLECTUAL PROPERTY DEVELOPMENT
2355 MAIN STREET, SUITE 200
IRVINE, CA 92614

EXAMINER

LEWIS, CHERYL RENE A

ART UNIT PAPER NUMBER

2177

DATE MAILED: 03/11/2004

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/010,078

Applicant(s)

LAMKIN ET AL.

Examiner

Cheryl Lewis

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 November 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>7 & 9</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1-20 are presented for examination.

INFORMATION DISCLOSURE STATEMENT

2. The information disclosure statements filed on January 19, 2002, paper no. 7 and June 23, 2003, paper no. 9, complies with the provisions of MPEP § 609. They have been placed in the application file, and the information referred to therein has been considered as to the merits.

Drawings

3. The drawings are objected to because they fail to show necessary textual labels of features or symbols in Figures 1 and 2. For example, placing a label, "storage medium", with element 106 of Figures 1 and 2, would give the viewer necessary detail to fully understand this element at a glance. A ***descriptive*** textual label for ***each numbered element*** in these figures would be needed to fully and better understand these figures without substantial analysis of the detailed specification. Any structural detail that is of sufficient importance to be described should be shown in the drawing. Optionally, applicant may wish to include a table next to the present figure to fulfill this requirement. See 37 CFR 1.83. 37 CFR 1.84(n)(o) is recited below:

"(n) Symbols. Graphical drawing symbols may be used for conventional elements when appropriate. The elements for which such symbols and labeled representations

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are used must be adequately identified in the specification. Known devices should be illustrated by symbols which have a universally recognized conventional meaning and are generally accepted in the art. Other symbols which are not universally recognized may be used, subject to approval by the Office, if they are not likely to be confused with existing conventional symbols, and if they are readily identifiable.

(o) Legends. Suitable descriptive legends may be used, or may be required by the Examiner, where necessary for understanding of the drawing, subject to approval by the Office. They should contain as few words as possible."

SPECIFICATION

4. The applicants are required to update the status of the patent documents cited on page 1 of the specification.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

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1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claims 1, 2, and 4-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Landvater (Pat. No. 6,609,101 B1, filed March 25, 2000) and Wilf et al. (Pat. No. 5,899,980, filed August 11, 1997, hereinafter Wilf).

7. Regarding Claims 1, 5, 6, 10-13, 15, 16, 18, and 19, Landvater teaches a method and system for determining time-phased product sales forecasts and projected replenishment shipments for a retail stores supply chain.

The method and associated system for determining time-phased product sales forecasts and projected replenishment shipments for a retail stores supply chain as taught or suggested by Landvater includes:

generating a tracking identifier (figure 5, col. 8, lines 6-21, '...POS system 90 provides sales information in the form of products sold, quantities sold, and date

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sold...'); incorporating the tracking identifier (col. 8, lines 6-20) with content stored in a stored medium (col. 7, lines 43-45); storing the tracking identifier in a database (col. 8, lines 6-21 and 39-41); providing a storage medium (col. 7, lines 43-45) to a primary distributor (figure 1, element 23 'Retail store (level 1)', col. 6, lines 47-49 and 54-57, col. 15, lines 45-51); receiving information from the primary distributor (col. 6, lines 45-57, col. 8, lines 18-41); associating within the database (figure 2, element 36 'Database', col. 7, lines 39-41), in response to the receiving information from the primary distributor (col. 8, lines 18-26), the tracking identifier (col. 8, lines 29-41, '...the amount of inventory...case size...economical shipping size...dates when deliveries..lead time (or transit time)...') with information from the primary distributor (figure 1, element 23 'Retail store (level 1)', col. 6, lines 47-49 and 54-57, col. 15, lines 45-51); receiving information from a second level distributor (figure 2, element 24 'Supplier (level 2)', col. 6, lines 49-51 and 57-61, col. 7, line 3 '...supplier 24 that is a retail distribution center (level 2)...', col. 8, lines 55-59); associating within the database (figure 2, element 36 'Database', col. 7, lines 39-41), in response to the receiving information from the second level distributor (col. 8, lines 26-47), the tracking identifier (col. 8, lines 58-67, col. 9, lines 1-2 and 15-25, '...amount of inventory...the number of days or weeks of supply that should be delivered at one time to prevent an excessive number of small deliveries...') with the second level distributor (figure 2, element 24 'Supplier (level 2)', col. 6, lines 49-51 and 57-61, col. 7, line 3 '...supplier 24 that is a retail distribution center (level 2)...', col. 8, lines 55-59); a distributor network (figures 1-6) and a server (col. 7, lines 50-60).

Landvater does not expressly teach providing credit.

Wilf teaches providing credit (col. 1, lines 55-60, col. 4, lines 64-67).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the retail method of Landvater with the retail method of Wilf because Wilf's retail method enables connecting a customer computer station to a point of sale computer station, purchasing goods from a point of sale computer station by a customer, validation of purchasing by a transaction server and a network service provider server, charging the customer for a purchase, the charging includes a transaction including the steps of billing an account of a customer by a network service provider server a transaction sum and billing by a transaction server an account of the network service provider server and transaction sum (Abstract, lines 1-18).

8. Regarding Claims 2, 7, 9, 14, 17, and 20, Landvater teaches the content is a sale (col. 8, lines 6-10).

9. Regarding Claims 4 and 8, the limitations of this claim have been noted in the rejection above. In addition, Landvater teaches receiving information from a third distributor (figure 1, element 25 'Manufacture (level 3)', col. 6, lines 50-67, col. 7, lines 1-24); associating within the database (figure 2, element 36 'Database', col. 7, lines 39-41), in response to the receiving information from the third level distributor (col. 9, lines 30-40 and 60-67), the tracking identifier with the third level distributor (col. 9, lines 49-67, col. 10, lines 1-19).

10. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Landvater (Pat. No. 6,609,101 B1, filed March 25, 2000) and Wilf et al. (Pat. No. 5,899,980, filed

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August 11, 1997, hereinafter Wilf) as applied to claim 1 above, and further in view of Oshima et al. (Pat. No. 6,633,853 B2, filed November 30, 1999, hereinafter Oshima).

11. Regarding Claim 3, Landvater and Wilf do not expressly teach a burst cut area of a storage medium.

Oshima teaches a burst cut area of a storage medium (col. 1, lines 36-50 and 64-67, col. 2, lines 4-5 and 13-15).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the methods of Landvater and Wilf with Oshima's method of providing an optical disk because Oshima's method enables a recordable optical disk to record information comprising a recording device having first and second recording areas, the second recording area having recorded disk identification information unique to the disk and the first recording area being capable of having recorded information that is encrypted by using the disk identification information (Abstract, lines 1-7).

CONCLUSION

12. The prior art made of record and not relied upon is considered pertinent to Applicant's disclosure.

A. Shell et al. (U.S. Pat. No. 6,415,265 B1) discloses a multi-level marketing computer network server;

B. Call (U.S. Pat. No. 5,913,210) discloses methods and apparatus for disseminating product information via the internet.

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NAME OF CONTACT

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cheryl Lewis whose telephone number is (703) 305-8750. The examiner can normally be reached on 6:30-3:00.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Breene can be reached on (703) 305-9790. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

(703) 746-5651 (Use this FAX #, only after approval by Examiner, for "INFORMAL" or "DRAFT" communication. Examiners may request that a formal paper/amendment be faxed directly to them on occasions.).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.



Cheryl Lewis
Patent Examiner
March 3, 2004



JOHN BREENE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100